

Appeal Decision

Site visit made on 20 September 2016

by Stephen Normington BSc DipTP MRICS MRTPI FIQ FIHE

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 20th October 2016

Appeal Ref: APP/B0230/W/16/3151632

Rear of 21-23 Chester Avenue, Luton LU4 9SF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr Noel Macnamara against the decision of Luton Council.
 - The application Ref 15/01593/OUT, dated 27 October 2015, was refused by notice dated 31 December 2015.
 - The development proposed is the erection of two detached 2 bed chalet bungalows to the rear of 21-23 Chester Avenue.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The application is in outline with matters of appearance and landscaping reserved for future consideration. A drawing showing the position and scale of the proposed dwellings was submitted with the application which I have had regard to in the determination of this appeal.

Main Issues

3. The main issues are:
 - The effect of the proposed development on the character and appearance of the surrounding area.
 - Whether the proposed development would provide adequate living conditions for the future occupiers of the dwellings having particular regard to accommodation space.
 - The effect of the proposed development on the living conditions of the occupants of neighbouring properties with particular regard to outlook, noise, and disturbance.
 - Whether the proposed development makes provision for a financial contribution to local education and waste management facilities and services.

Reasons

Character and appearance

4. The appeal site comprises part of the rear garden of Nos 21 and 23 Chester Avenue. Properties on this side of Chester Avenue comprise predominantly of
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blocks of four terraced dwellings having long rear gardens. Planning permission has previously been granted for the erection of 8 dwellings in the rear gardens of Nos 25 - 31 Chester Avenue. Whilst I have no details of the design of these dwellings, at the time of my site visit the construction of chalet style bungalows was complete on land to the rear of No 25 with foundation work being undertaken on the construction of dwellings on land to the rear of No 27.

5. The proposed development would comprise the construction of two chalet style dwellings, with dormer windows on the front and rear elevations of the first floor, which would be positioned in a staggered arrangement to the dwelling at the rear of No 25. Access would be off Chester Avenue in the existing gap between Nos 23 and 25 and which serves as the access for the dwellings being constructed to the rear of Nos 25 - 31.
6. Whilst I note the Council's views that the previously approved backland development at the rear of Nos 25 - 31 may have been granted under different planning policy considerations than those that are applicable to the appeal proposals, the fact remains that this development is under construction and as such sets part of the visual context for the consideration of the appeal scheme.
7. In my view, the character of the rear gardens in the vicinity of the appeal site has been changed by the introduction of the properties now being constructed at the rear of Nos 25 - 31. The proposed development would be reflective of the character of this part of Chester Avenue by the introduction of two chalet dwellings in the rear gardens that would be reflective of the scale and position of existing and approved adjacent development. The length of the remaining garden areas of the host properties would be reflective of those at Nos 25 - 31. In addition, there would be no impact on the character and appearance of the Chester Avenue street scene.
8. Although the Council suggest that the scale of the development cannot be ascertained due to the outline nature of the proposals, the plans clearly show that the site is capable of accommodating two chalet dwellings that would be reflective of the scale of those being constructed on the adjacent site.
9. Taking these factors into account I do not consider that the proposed development would cause any unacceptable harm to the character and appearance of the area. Consequently, there would be no conflict with Saved Policies LP1, ENV9 and H2 of the Luton Local Plan 2001 to 2011 (Local Plan). These policies, amongst other things, require new development to not conflict with the aims and objectives of the Local Plan Policies; that the character and appearance of the area is enhanced; that the scale and proportion of existing buildings is respected and that development is not over-intensive and is well sited to surrounding buildings.

Living conditions – occupants of proposed bungalows

10. The Council has referred to the Government's Technical Housing Standards – Nationally Described Space Standard (2015) which requires that a two bedroom four person dwelling should have a minimum floor area of 79 sq m. The Council suggest that the proposed development would provide for dwellings having a floor area of 76 sq m and as such would fail to meet the required standard thereby providing inadequate living conditions for future occupants. I have no evidence to indicate that the Council's calculation of the

floor area of the bedrooms is incorrect. The proposed development therefore fails to meet with the minimum floor space standards for two storey dwellings as required by the Technical Housing Standards.

11. Although the appeal relates to an outline application, the application form clearly indicates that scale and layout of the proposed development were submitted for consideration at the outline stage. In failing to meet the required floor space the proposed development would provide inadequate internal accommodation space which would be harmful to the living conditions of future occupants.
12. In addition to being contrary to the requirements of the Technical Housing Standards – Nationally Described Space Standard (2015), it would also be contrary to Policy LP1 of the Local Plan. This policy, amongst other things, requires that new development should use buildings efficiently and maximise the opportunity to improve the quality of life for residents.

Living conditions – occupants of neighbouring properties

13. The Council suggest that residential standards require a minimum separation distance of 13.7m in a front to flank relationship and indicate that the dwelling proposed to the rear of No 23 would be sited 2.6m to 4.6m from the front elevation of the existing dwellings at the rear of No 25. I have no evidence of any planning policy or supplementary planning document as to where such separation distance is to be found or that it has been formally adopted by the Council.
14. Although I have no details of the design of the chalet bungalows to the rear of Nos 25 - 31, my observations on site indicate that these are constructed in a block of four properties, two front facing towards the rear of Nos 25 – 31 and two rear facing. Each has a single room kitchen/lounge on the ground floor and a bedroom and bathroom in the roof space of the first floor. The front and rear elevations of the ground floor have two primary windows serving a lounge/kitchen. The side elevation that would face the flank of the proposed dwelling to the rear of No 23 have two side doors to each property, a small obscurely glazed window and a side secondary window to the lounge/kitchen.
15. In my view, the arrangement between the proposed and existing dwellings does not constitute a front to flank relationship as suggested by the Council but side elevation, containing secondary windows, to a proposed blank wall. Although I have no evidence of any adopted separation standards for such arrangements, given that each of the existing properties have primary windows facing the front and the rear, I do not consider that the proximity of the proposed development to the secondary side windows and door would result in any unacceptable loss of outlook or light being received at these dwellings.
16. The proposed development would result in additional vehicular movements using the current access between Nos 23 and 25. This would increase the noise and disturbance that would be experienced in the rear gardens of neighbouring dwellings. However, there would already be some degree of noise and disturbance associated with the use of the eight properties approved to the rear of Nos 25 – 31. Although the proposed development would add to this, given the extent of garden area that would remain at the host properties and the length of other gardens in the vicinity, I do not consider that any

additional noise and disturbance would be of an extent to warrant the dismissal of this appeal.

17. Taking the above factors into account, I do not consider that the proposed development would cause any significant harm to the living conditions of the occupants neighbouring properties with particular regard to outlook, noise, and disturbance. As such there would be no conflict with Policy LP1 of the Local Plan. This policy, amongst other things, requires new development to maximise the opportunity to improve the quality of life of residents.

Financial contributions

18. Policy IMP1 of the Local Plan requires, in appropriate circumstances, new development to make a financial contribution towards facilities which there is a recognised need in the Borough or a recognised deficit in the locality. The Council's Supplementary Planning Document on Planning Obligations (2007) (SPD) identifies the range of facilities for which financial contributions to facilities will be required relative to the size of the development proposed.
19. In this case the Council has identified that a financial contribution is necessary towards the provision of education and waste management facilities which are identified in the SPD. Although the appellant indicates that a draft legal agreement has been prepared I have no evidence to indicate that this has been submitted to, or considered by, the Council. In addition, I have no evidence before me of any agreed planning obligation that would be used to secure such financial contributions.
20. Consequently, the proposed development would fail to make provision for a financial contribution towards services and facilities identified as being required in the SPD. Therefore, the proposed development would be contrary to Policy IMP1 of the Local Plan.

Conclusion

21. I have found no significant harm to the character and appearance of the area or harm to the living conditions of the occupants of neighbouring properties. However, these issues do not outweigh the fact that the proposed development does not meet the requirements of the Technical Housing Standards – Nationally Described Space Standard (2015) and does not provide any mechanism to make provision for a financial contribution towards services and facilities identified as being required in the SPD. For the above reasons, and taking into account all other matters raised, I conclude that the appeal should be dismissed.

Stephen Normington

INSPECTOR